

REMARKS

Claims 1, 3 and 4 are pending and under consideration in the above-identified application and claims 15-46 were cancelled. Claims 2, 5 and 6-14 were cancelled previously and remain cancelled.

In the Office Action dated July 17, 2009, the Examiner rejected claims 1, 3 and 4.

With this Amendment, claims 1, 3 and 4 were amended. No new matter has been introduced as a result of the Amendment. Support for this Amendment can be found on at least pages 9 and 10 of the specification.

I. 35 U.S.C. § 112 Indefiniteness Rejection of Claims

Claim 1 was rejected under 35 U.S.C. § 112, first paragraph. Applicant respectfully disagrees. Graphite is a carbon material, support for the graphite material as part of the negative electrode can be found on at least pages 8-10 of the specification. Accordingly, Applicant respectfully requests that the above rejection be withdrawn.

Claims 1, 3 and 4 were rejected under 35 U.S.C. 112, second paragraph. Applicant respectfully traverses this rejection. However, in the interest of moving forward with the prosecution of the claims, the limitations that the Examiner rejected have been removed from the claims. As such, the Examiner's rejection is now moot. Accordingly, Applicant respectfully requests that the above rejection be withdrawn.

II. 35 U.S.C. § 103 Obviousness Rejection of Claims

Claims 1, 3 and 4 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi et al. (JP 10-334,915) and Morita et al. (EP 0861804). Applicant respectfully traverses this rejection.

The claims require a negative electrode that includes a graphite containing material. The graphite containing material has a graphite crystalline structure as a base material and an amorphous coating on the surface of the base material. As a result, the surface activity is suppressed and the irreversible capacity is decreased. Specification, page 6.

Hayashi et al. teaches a pulverization process of carbon or graphite grains in order to round the grain shape and increase the filling property of carbon and graphite. Hayashi et al., Abstract. However, Hayashi et al. does not teach or even fairly suggest a carbon or graphite material that has a graphite crystalline structure as a base material and an amorphous coating on its surface as required by the claims.

Morita et al. teaches a coating on a carbon coated material, but does not teach or even fairly suggest that the coating is amorphous as required by the claims. As such, the above cited references fail to teach or even fairly suggest all the required elements of the claims. As such, Applicant respectfully requests that the above rejections be withdrawn.

III. Conclusion

In view of the above amendments and remarks, Applicant submits that all claims are clearly allowable over the cited prior art, and respectfully requests early and favorable notification to that effect.

Respectfully submitted,

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